

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 1165 OF 1993
HOUSE BILL 1065

4 **By: Representatives D. Wood, Henry, M. Wilson, Dietz, Molinaro, Bennett, Stalnaker,**
5 **Fletcher, Riable, Townsend, Brown, Jones, Walker, Argue, Pryor, and Wyrick**

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For An Act To Be Entitled

9 "AN ACT TO ENHANCE THE ABILITY OF THE STATE AND ITS
10 POLITICAL SUBDIVISIONS TO ATTRACT MAJOR INDUSTRIES TO
11 LOCATE WITHIN THEIR BOUNDARIES; AND FOR OTHER PURPOSES."

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Subtitle

14 "AN ACT TO ENHANCE THE ABILITY OF THE STATE AND ITS
15 POLITICAL SUBDIVISIONS TO ATTRACT MAJOR INDUSTRIES TO
16 LOCATE WITHIN THEIR BOUNDARIES."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. This act shall be known as "The Major Industry Facilities
21 Incentive Act".

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23 SECTION 2. As used in this act, unless the context otherwise requires:

24 (1) "Bonds" means revenue bonds or general obligation bonds;

25 (2) "Eligible facility" means any *facility owned by any state agency*
26 *or political subdivision, and any facility financed through the issuance of*
27 *bonds by any state agency or political subdivision at which at least one*
28 *hundred (100) people are employed and which is acquired or completed, or*
29 *substantially reconstructed or expanded, after 12-31-92;*

30 (3) "Political subdivision" means cities of the first or second class,
31 counties, and any governmental entity created by them; and

32 (4) "State income tax" means the Arkansas state income tax.

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34 SECTION 3. Application for assistance generally. Any state agency or
35 political subdivision that has acquired or constructed or which desires to
36 acquire or construct, *or which has financed or which desires to finance*

1 through the issuance of its bonds, an eligible facility may apply to the State
2 Board of Finance for state assistance in paying the debt service requirements,
3 including principal, interest, and trustee's and paying agent's fees and
4 charges, on bonds issued or to be issued by the state agency or political
5 subdivision to finance all, or a portion of, the eligible facilities and
6 capital improvements related thereto and any amounts theretofore expended by
7 the state agency or political subdivision from its revenues to acquire or
8 construct the eligible facility and capital improvements related thereto
9 increased by an annual rate of interest equal to the average rate of interest
10 to be paid on the bonds issued to finance the facility.

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12 SECTION 4. Application - Contents.

13 (a) All applications for state assistance under this act shall be in
14 writing and shall describe:

15 (1) The eligible facilities;

16 (2) The financing thereof;

17 (3) The estimated number of people to be employed at the
18 facility;

19 (4) The estimated additional state income tax revenues to be
20 derived as a result of the expenditures;

21 (5) The expected expense, if any, to the state; and

22 (6) Any other matters prescribed by the State Board of Finance.

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24 SECTION 5. Application - Review. Upon receipt of an application for
25 state assistance, the State Board of Finance shall proceed promptly to review
26 it and shall notify the applicant of any additional information needed for a
27 proper evaluation of the application.

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29 SECTION 6. Application - Hearings.

30 (a) After reviewing the application, and upon reasonable notice to the
31 applicant, the State Board of Finance shall hold a public hearing on the
32 application.

33 (b) (1) The State Board of Finance shall give notice of the time,
34 place, and purpose of the public hearing by publication one time in a
35 newspaper of general circulation within the boundaries of the applicant, such

1 publication to be not less than ten calendar days prior to the hearing.

2 (2) The notice shall describe generally the facilities for which
3 state assistance has been requested and shall contain a brief description of
4 the procedural steps to be taken in connection with the application and the
5 financing of the facilities.

6 (c) At the public hearing representatives of the applicant and any
7 other interested persons may appear and present evidence and argument in
8 support of or in opposition to the application, and the State Board of Finance
9 may present additional evidence.

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11 SECTION 7. Application - Determination of eligibility.

12 (a) After consideration of the application and conclusion of the
13 hearing, the State Board of Finance shall determine whether the facilities
14 described in the application are eligible facilities.

15 (b) If the State Board of Finance determines that the facilities
16 described in the application are eligible facilities and that the financing of
17 or repayment for such eligible facilities through a combination of bonds of
18 the applicant and state assistance under this act is in the best interest of
19 the applicant and the state, the application shall be approved.

20 (c) In determining whether state assistance is in the best interest of
21 the applicant and the state, the State Board of Finance shall consider:

22 (1) The capacity of the applicant to issue bonds to finance the
23 eligible facilities;

24 (2) The amount of additional state income tax revenues estimated
25 to be derived from the eligible facilities; and

26 (3) The estimated principal and interest requirements for the
27 bonds issued in connection with the eligible facilities or amounts necessary
28 to repay the investment by a state agency or political subdivision in eligible
29 facilities.

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31 SECTION 8. State assistance.

32 (a) If the application is approved, the State Board of Finance shall
33 fix the amount of state assistance to the state agency or political
34 subdivision to repay its investment or for paying debt service on the bonds
35 issued to finance, in whole or in part, the eligible facilities if requested

1 by the state agency or political subdivision and, on behalf of the state,
2 shall enter into an agreement providing for the payment of the amount so fixed
3 in quarterly payments and shall certify the amount to the State Treasurer.

4 (b) If the state agency or political subdivision issues two or more
5 issues of bonds to finance eligible facilities, the amount of state assistance
6 shall be fixed separately for each issue.

7 (c) The total amount of state assistance shall be fixed at no more than
8 the additional state income tax revenues directly generated by the eligible
9 facilities.

10 (d) It shall be a condition to any payments under this act that the
11 state agency or political subdivision has issued and has outstanding its bonds
12 for the purpose of financing, in whole or in part, the eligible facilities,
13 but this shall not limit the provisions in this act for repayment of a state
14 agency_s or political subdivision_s investment, heretofore made, in eligible
15 facilities.

16 (e) The payments provided for in this act shall be subject to the
17 specific appropriation by the General Assembly and shall be for a term of not
18 longer than two years, but shall, subject to the appropriation by the General
19 Assembly, be extended from time to time for additional terms of not to exceed
20 two years each.

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22 SECTION 9. Major Industry Facilities Incentive Fund - Creation. There
23 is created on the books of the Treasurer of State, Auditor of State, and Chief
24 Fiscal Officer of the State a fund to be known as the Major Industry
25 Facilities Incentive Fund.

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27 SECTION 10. Major Industry Facilities Incentive Fund - Transfer of
28 funds. The Treasurer of State shall monthly, before making the percentage
29 distributions of general revenues as provided by law, deduct from the General
30 Revenue Fund Account of the State Apportionment Fund an amount of money
31 necessary to meet the quarterly payments to state agencies and political
32 subdivisions provided for in this act and shall credit them to the Major
33 Industry Facilities Incentive Fund, and shall quarterly pay over the amounts
34 to each state agency or political subdivision, provided that the General
35 Assembly shall have appropriated funds for them.

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SECTION 11. Major Industry Facilities Incentive Fund - Disbursements.

(a) The State Board of Finance shall certify to the Treasurer of State the amount of assistance to each state agency or political subdivision for paying debt service on the bonds issued to finance the eligible facilities.

(b) If it should be determined that overpayments were made to the entity, then the overpayments shall be recovered by reducing the succeeding fiscal year's entitlement by the overpayment.

SECTION 12. Payments.

(a) Payments of state assistance to state agencies and political subdivisions under this act shall be made by remitting them directly to the trustee for the holders of the bonds issued to finance the eligible facilities.

(b) The trustee shall apply such state assistance money to the payment or redemption of the bonds, and to the payment of interest thereon.

(c) When the bonds issued to finance the eligible facilities are fully retired or the investment of the state agency or political subdivision of its revenues in the eligible facilities has been repaid with accrued and accruing interest, any money then held by the trustee derived from the state assistance shall be returned to the Treasurer of State and deposited in the State Treasury as general revenues to the credit of the General Revenue Fund Account of the State Apportionment Fund, and future eligibility for that project shall be terminated.

SECTION 13. Suspension of local tax. Any state agency or political subdivision entering into an agreement pursuant to this act may provide for suspension, in whole or in part, of the collection of any tax voted for payment of its general obligation bonds issued in accordance with an agreement under this act in any year when money derived from state assistance under this act or from other sources is available for payment of all, or a portion of, the debt service on the bonds.

SECTION 14. Pledge of state revenues prohibited.

(a) Nothing in this act shall be construed as authorizing the pledging

1 of the faith and credit of the state or any of its revenues, either for the
2 performance of the obligations of the state under the agreements authorized by
3 this act or for the payment of bonds issued pursuant to such agreements.

4 (b) All payments to state agencies and political subdivisions under
5 this act are made subject to specific appropriations for such purpose and
6 nothing in this act, or in any agreement entered into pursuant to this act,
7 shall be construed to require the General Assembly to make any appropriation
8 pursuant to this act, or such agreement, or to prohibit the General Assembly
9 from amending or repealing this act at any time.

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11 SECTION 15. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 16. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 17. All laws and parts of laws in conflict with this act are
22 hereby repealed.

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/s/Doug Wood, et al

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APPROVED: 4/15/93

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